

**CONDITIONS OF APPROVAL – October 22, 2014**

**151 E. Main Street**

**Conditional Use Permit U-14-014**

**Requesting approval to operate a minor restaurant (Dio Deka Cafe) on property zoned C-2. APN 529-28-001.**

**PROPERTY OWNER: Diane Goldberg**

**APPLICANT: Julian Sakis (DIO DEKA)**

**TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:**

*Planning Division*

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as received by the Town on October 8, 2014. Any changes or modifications to the approved plans shall be approved by the Community Development Director, the Development Review Committee, the Planning Commission, or Town Council, depending on the scope of the changes.
2. **EXPIRATION:** The approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. **USE:** The approved use is minor restaurant. The use was considered specialty retail for traffic trip purposes and the Town's Traffic Impact Policy.
4. **SEATS:** The maximum number of seats, indoor and outdoor, is 8.
5. **OUTDOOR SEATING:** Outdoor seating is not permitted in the public right-of-way. A physical delineation in the form of landscaping or planters to separate public and private property must be installed prior to commencement of use. The proposed physical delineation shall be shown on the building permit plans, prior to issuance of building permits, and shall be a minimum of three feet high but no higher than four feet. The physical design and plant material should complement the design of the building. Plant material shall be alive.
6. **DESIGN OF OUTDOOR TABLES, CHAIRS, AND PHYSICAL DELINEATION:** The design of outdoor tables, chairs, and the outdoor seating physical delineation shall match outdoor tables, chairs, and the outdoor seating physical delineation of Dio Deka at 210 E. Main Street.
7. **OUTDOOR FURNITURE:** Outdoor furniture, including tables, chairs, and heat lamps, shall be placed indoors at or before the close of business.
8. **HOLD HARMLESS AGREEMENT:** A hold harmless agreement shall be recorded releasing the Town from any liability related to the outdoor seating, prior to the issuance of building permits.
9. **HOURS OF OPERATION:** The maximum hours of operation are 7:00 a.m. to 10:00 p.m., seven days a week.
10. **ALCOHOL BEVERAGE SERVICE:** The service of alcohol is not permitted.
11. **LIVE ENTERTAINMENT:** No live entertainment is permitted.
12. **TAKE-OUT SERVICE:** Take-out food shall be served in recycled material containers.
13. **RECYCLABLE MATERIALS:** The restaurant shall utilize recycled products whenever such a product is available.

14. **LAPSE FOR DISCONTINUANCE:** If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year, the approval lapses pursuant to Section 29.20.340 of the Zoning Ordinance.
15. **TOWN INDEMNITY:** Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval, and may be secured to the satisfaction of the Town Attorney.

#### *Building Division*

16. **PERMITS REQUIRED:** A Building Permit shall be required for alteration to the existing commercial building. Separate permits are required for electrical, mechanical, and plumbing work as necessary.
17. **CONDITIONS OF APPROVAL:** The Conditions of Approval must be blue-lined in full on the cover sheet of the construction plans. A Compliance Memorandum shall be prepared and submitted with the building permit application detailing how the Conditions of Approval will be addressed.
18. **SIZE OF PLANS:** Four sets of construction plans, maximum size 24" x 36".
19. **TITLE 24 ENERGY COMPLIANCE:** All required California Title 24 Energy Compliance Forms must be blue-lined (i.e. sticky backed) onto the plans including lighting compliance and mandatory measures.
20. **TITLE 24 ACCESSIBILITY – COMMERCIAL:** For any proposed tenant improvements, on-site parking and general path of travel shall comply with the latest California Title 24 Accessibility Standards. Work shall include, but not be limited to, accessibility to building entrances from parking facilities and sidewalks. The building shall be upgraded to comply to the latest California Title 24 Accessibility Standards. Necessary work shall be first investigated and then confirmed by Town staff. See Advisory Comment 10.b.
21. **TITLE 24 – RESTAURANT USE:** Proper size grease trap shall be verified for any restaurant use. The following agencies will review the grease trap requirements as well as other food service requirements and approvals before issuance of the building permit:
  - a. West Valley Sanitation District (WVSD): (408) 378-2408
  - b. Environmental Health Department: (408) 885-4200
  - c. Town Public Works Department: (408) 399-7530
22. **APPROVALS REQUIRED:** The project requires the following departments and agencies approval before issuing a building permit:
  - a. Community Development – Planning Division: Jennifer Savage at (408) 399-5702
  - b. Santa Clara County Fire Department: (408) 378-4010
  - c. West Valley Sanitation District: (408) 378-2407
  - d. County Environmental Health Department: (408) 885-4200

**TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:**

#### *Engineering Division*

23. **RESTORATION OF PUBLIC IMPROVEMENTS.** The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters,

sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.

24. **GENERAL.** All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
25. **ENCROACHMENT PERMIT.** All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security. It is the responsibility of the applicant/developer to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric (PG&E), SBC, Comcast, Santa Clara Valley Water District, California Department of Transportation. Copies of any approvals or permits must be submitted to the Town Engineering Department prior to releasing of any permit.
26. **PUBLIC WORKS INSPECTIONS.** The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
27. **RESTORATION OF PUBLIC IMPROVEMENTS.** The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
28. **STREET/SIDEWALK CLOSURE.** Any proposed blockage or partial closure of the sidewalk requires an encroachment permit. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required.
29. **DESIGN CHANGES.** Any proposed changes to the approved plans shall be subject to the approval of the Town prior to altered work is started. The Applicant Project Engineer shall notify, in writing, the Town Engineer at least 72 hours in advance of all the proposed changes. Any approved changes shall be incorporated into the final "as-built" plans.
30. **PARKING.** Any proposed parking restriction must be approved by The Town of Los Gatos, Community Development Department.

31. **CONSTRUCTION STREET PARKING.** No vehicle having a manufacture's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior to approval from the Town Engineer.
32. **CONSTRUCTION NOISE.** Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.
33. **WVSD (West Valley Sanitation District).** Sanitary sewer laterals are televised by West Valley Sanitation District and approved by the Town of Los Gatos before they are used or reused. Sanitary Sewer Clean-out is required for each property at the property line or location specify by the Town.
34. **SANITARY SEWER BACKWATER VALVE.** Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flusing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative. The Town shall not incur any liability or responsibility for damage resulting from a sewer overflow where the property owner or other person has failed to install a backwater valve as defined in the Uniform Plumbing Code adopted by the Town and maintain such device in a functional operation condition. Evidence of West Sanitation District's decision on whether a backwater device is needed shall be provided prior to issuance of a building permit.
35. **OUTDOOR TRASH ENCLOSURES. (Restaurants Only).** Outdoor trash enclosures shall be covered and provided with area drains connected to the sanitary sewer per current NPDES requirements. Temporary trash enclosures are exempt from this condition.
36. **GREASE TRAPS.** Meet all requirements of the Santa Clara County Health Department and West Valley Sanitation District for the interception, separation or pretreatment of effluent.
37. **GOOD HOUSEKEEPING.** Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the street will not be allowed unless a special permit is issued by the Engineering Division. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.